

State of the Judiciary Address

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January 19, 2011

Mr. Speaker and distinguished members of the Idaho House of Representatives, my colleagues on the Supreme Court and Court of Appeals, and fellow Idahoans.

Mr. President, Mr. President Pro Tem, and distinguished members of the Idaho Senate, my colleagues on the Supreme Court and Court of Appeals, and fellow Idahoans.

Thank you for inviting me to report on the state of the Idaho judiciary. It is an honor to be invited into this historic chamber to do so. In spite of the challenges resulting from the economic downturn, the judiciary is still fulfilling its constitutional responsibilities to the people.

As with other state agencies, the Judicial Branch has experienced significant budget cuts. We commenced a hiring freeze two years ago for nonjudicial positions. In addition, we now have three magistrate judge positions that we have held open. The emergency surcharge on infractions, misdemeanors, and felonies enacted last year has enabled the Judicial Branch of government to continue to fulfill its constitutional responsibilities. One of our judges did his part by receiving a traffic ticket the first day the surcharge went into effect.

Last year, I told you about two national awards received by the judiciary. In 2010, judges in Idaho continued to be recognized. The Idaho legislature was the first in the nation to adopt legislation authorizing the establishment of Domestic Violence Courts statewide. A team from the Ada County Domestic Violence Court was recently highlighted at an international conference for its work, progress, and innovation.

One of the challenges in domestic violence cases is the victim being pressured to dismiss the case or refuse to testify. Domestic violence courts provide victims with early access to advocacy and services. We have seen a decrease in dismissed cases and a 20% increase in guilty pleas, with 87% of the offenders doing so.

In addition, the accelerated disposition of these cases expedites offenders entering treatment and reduces recidivism, while providing close probation supervision to ensure compliance with all court conditions and promote safety for the victim.

The domestic violence courts are just one type of our problem-solving courts. We also have 56 drug and mental health courts throughout the state, which include DUI courts. The current prison population is significantly below the projection made several years ago, and I believe that our drug and mental health courts are partly responsible. These courts are currently at capacity, with over 2,300 adults and juveniles receiving treatment and supervision while being held accountable for their conduct. Outcome evaluations of our drug and mental health courts have proved their effectiveness in reducing recidivism and in helping those with substance abuse and mental health issues lead productive lives. Similar evaluations of four well-established DUI courts have also shown their effectiveness, with a 50% reduction in recidivism.

Last year, 30 babies were born to clean and sober women in drug and mental health courts, which brings the total to 228 drug free babies born to mothers in those courts. The mothers also have the ability to provide the care and nurturing needed for normal child development.

Idaho judges are working after hours to apply what we have learned from problem-solving courts to other issues. One such effort is attendance courts, which have resulted in increased school attendance where they have been tried. We know that dropping out of high school increases the risk of children becoming involved in self-destructive behaviors and decreases their opportunities for success.

We are also working to start a veterans' court in Ada County to deal more effectively with veterans struggling with substance abuse, post-traumatic stress disorder, traumatic brain injury, or other mental health issues. We will be proposing a modification to the statutory eligibility guidelines for drug and mental health courts to allow us to provide additional help for our returning veterans.

Drug-addicted parents are a significant factor in child abuse and neglect. We have four child protection drug courts that address parental substance abuse and other issues in cases of child

abuse and neglect. They are an effort to free the parents from the grip of addiction and to equip them to meet the needs of their children in a safe, loving, and nurturing home environment so that the family can remain intact. A federal grant has enabled three of these courts to expand and to undertake a thorough evaluation of their outcomes.

In many instances of child abuse, neglect, or abandonment, the rights of the parents are terminated. Cases involving the termination of parental rights and adoptions are tried in the magistrate court. Prior to 2009, appeals would go first to the district court and then to the Supreme Court, which took 2 to 3 years. During that time, there was no final decision as to whether the parental rights would be terminated or the adoption confirmed, and the children were in limbo.

In July 2009, we implemented an expedited appellate process for those cases, with the appeals going directly from the magistrate court to the Supreme Court. Now, it takes on average 126 days from the entry of judgment in the magistrate court to oral argument on appeal in the Supreme Court or Court of Appeals.

In my view, the judiciary works in partnership with various state and local entities to provide justice to Idahoans. Last year, I wrote to various state agencies and nongovernmental entities offering to meet with them to discuss any suggestions, complaints, or other issues they may have with the judiciary, and I met with those who responded. I have also traveled to over half of the counties to meet with county officials seeking the same input. I am pleased with the positive response concerning the performance of our courts, which indicates that our judges are working hard and doing a good job.

One county commissioner told me that whatever I do, do not let the local magistrate judge be promoted out of the county. Another commented that in all of his years as a county commissioner, I was the first elected official outside the county who came to meet with them seeking their input.

The primary issue raised by the counties was the cost of the criminal justice system, including prosecution, public defenders for indigent defendants, and county jails. The Criminal Justice Commission, consisting of representatives from all three branches of government and local officials, is also looking into the delivery of legal services to indigent criminal defendants. The Commission has concluded that there are issues that need to be studied to ensure that Idaho is complying with Constitutional mandates regarding the provision of effective counsel.

We have also seen an increased need for foreign language interpreters in the trial courts. In addition to providing due process for criminal defendants who are not proficient in the English language, the courts must also comply with federal and state statutory mandates applicable in both criminal and civil cases. In just Ada, Canyon, and Twin Falls counties, interpreters have been required for 48 different languages literally from A to Z, from Albanian, to Hindi (hin-dee), to Oromo (aw-roh-moh), to Tagalog (tah-gah-lawg), to Zapotec (sah-paw-tek).

With the economic downturn, we have seen an increase in divorce and child custody filings. Over the last three years, domestic relations cases in the Third and Sixth Judicial Districts have increased 28% and 16% respectively. Requests for assistance for Family Court Services have been steadily increasing, with over 30,000 parents accessing those services. Over 11,300 of Idaho's children have benefited from their parents attending parent education classes to learn ways to reduce their children's exposure to parental conflict.

Many of the people involved in civil cases cannot afford legal counsel. We have court assistance offices throughout the State to provide legal forms, assistance in filling them out, and information about court procedures. Last year, almost 55,000 people requested help from the court assistance offices. We have also collaborated with Idaho Legal Aid Services on a nationally recognized project to provide online assistance through an interactive interview process to complete 160 court-approved forms. Those forms have been used in all of Idaho's counties.

However, court assistance offices and online interactive forms are not an effective replacement for legal counsel in many domestic relations cases, especially those involving children. There is

a need to provide assistance for many litigants in such cases who cannot afford an attorney. One possible solution would be to increase the cost of a marriage license by \$20, which would generate about \$280,000 a year that could be used to provide legal assistance in civil cases involving children and families.

As I mentioned last year, in the 1980's you funded the statewide case management system known as ISTARS, which was the first system in the nation that included every trial court case filed in the state. Over the years, we have continually updated and improved ISTARS, and a nationally recognized expert recently characterized it as "the best statewide system of its kind in the country." It not only assists our judges in managing their cases, it has also helped decrease costs to other state agencies by providing information electronically about case dispositions to eliminate the need for repetitive data entry.

ISTARS also identifies those people who owe more than \$50 and sends that information electronically, along with identifying information, to the State Tax Commission. Last year, the Commission intercepted over \$3.2 million dollars in income tax refunds which were used to make payments of restitution to crime victims, fines, and court costs that were past due in over 16,000 cases statewide. My office received numerous telephone calls from people demanding to know why the Supreme Court took their tax refunds.

The courts have worked with law enforcement, including the Idaho State Police, to develop and implement electronic citations, or e-citations. The officer uses a computer to generate a printed citation, and the data is transmitted to the courts electronically. This process reduces the average traffic stop time from 12 minutes to 3 minutes per stop. The number of law enforcement agencies using e-citations has increased, resulting in significant clerical savings and operational efficiencies for both law enforcement and the courts.

We are continually seeking ways to use technology to increase productivity and reduce costs. We intend to implement electronic filing of documents in trial courts so that attorneys and private citizens can file documents over the internet. This will lessen the court's reliance on paper records, which will reduce the amount of courthouse space devoted to court files.

District court civil cases have increased dramatically over the past five years, with the greatest increase in Idaho's most populous counties. The increase has been 31% in Kootenai County, 56% in Canyon County, and 71% in Ada County. This has put an increased work load on our district judges because many of those cases are complex business, medical, and financial cases that are time consuming and demanding.

We have also seen an increased difficulty in attracting qualified candidates to apply for district judge positions. The last two district judge openings attracted only two qualified applicants, one for each position. Two years ago we appointed Judges Lansing and Gutierrez of the Court of Appeals to chair a committee to investigate hindrances to attorneys applying for judicial positions, and we are now pursuing strategies to encourage more qualified applicants to apply.

Before closing, I want to acknowledge the many Idaho judges who are working evenings and weekends in an attempt to keep up with the increasing caseloads. Part-time senior judges have played a critical role in enabling the judiciary to dispose of cases in a timely manner. Last year, the days worked by senior judges were the equivalent of almost nine judicial positions, which translates into significant savings to the citizens of Idaho and the general fund.

We appreciate the outstanding working relationship we have with the other branches of government, and on behalf of Idaho's judges I thank you for your support, especially during these difficult economic times.